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E-filed October 25<sup>th</sup> 2006

9 UNITED STATES BANKRUPTCY COURT  
10 DISTRICT OF NEVADA

11 IN RE:  
12 SCOTT K. GREENE.

CASE NO. BK-N-05-54727-GWZ  
CHAPTER 7

13 MOTION FOR ORDER  
14 AUTHORIZING SALE OF REAL  
15 PROPERTY FREE AND CLEAR OF  
16 LIENS AND ENCUMBRANCES;  
17 PAYMENT OF SALES COMMISSION

18 Debtor.

Hearing Date: November 21, 2006  
Hearing Time: 10:00 a.m.  
Time reqd.:

19 Anabelle Savage, Chapter 7 trustee ("Trustee"), requests an order of the court  
20 authorizing her to sell real property free and clear of liens and encumbrances and to pay a real  
21 estate commission to Dickson Realty. This motion is made in accordance with 11 U.S.C.  
22 §363(b), (f) and (m) as well as F.R.Bankr.P. 2002, 6004 and 9014. This motion is supported  
23 by the separately filed Declaration of Anabelle Savage. Finally the Trustee requests that the  
24 court take judicial notice of the papers on file in this case.

25 **FACTS**

26 1. This case was filed on October 15, 2005 and the Trustee was appointed to  
27 administer the estate.

28 2. Debtor, Scott Greene ("Debtor"), listed real property located at 450 Alimosa Dr.,  
Sparks, NV on Schedule A filed with this bankruptcy petition with a value of \$240,000.00 (the  
"Property"). The Property consists of approximately 67.11 acres of bare land located in  
Spanish Springs Nevada. The Property is encumbered by a deed of trust securing a promissory  
note in an amount in excess of \$77,000.00 in favor of Sun West Bank ("Bank").

3. Although the Property was initially scheduled by the Debtor as exempt up to its

entire value, creditor, Rena Wells ("Wells"), objected to such exemption. After the hearing of the Wells objection, the court entered an order on July 27, 2006 ("Exemption Order") limiting the amount of the Debtor's exemption to \$125,000.00. Docket #54. The Debtor thereafter filed a motion to stay the Exemption Order and filed an appeal of the same. The court denied the Debtor's motion for stay by order entered on September 28, 2006 ("Stay Order "). Docket #86. The Stay Order also permitted the Trustee to sell the Property for the estate.

4. On August 24, 2006 the court entered an order approving the Trustee's application to employ Darlene Stanoff (" Stanoff") of Dickson Realty ("Dickson") to sell the Property. Docket #64.

5. Stanoff's efforts resulted in the Trustee receiving and accepting an offer to purchase the Property for \$370,000.00. The offerors are David and Lois McClenahan ("McClenahans"). A true and correct copy of the Offer and Acceptance Agreement, Vacant Land ("Offer") is attached to the Trustee's Declaration as Exhibit "A" and incorporated herein by reference.

6. The Offer contemplates the close of escrow to be no later than November 30, 2006.

7. The Offer anticipates a commission of 6% of the sale price. In this case the McClenahans are also represented by Harvey Fenell of Dickson. It is not known whether the commission is to be spit equally between the agents. In any case, if the sale closes a 6% commission on \$370,000 would be \$22,200.00.

8. To the best of the Trustee's knowledge the McClenahans, as purposed purchasers, have no connection to the Debtor or to the Trustee and are good faith purchasers for value.

#### **LEGAL DISCUSSION**

Sales of property, other than in the ordinary course of business, may be approved only after notice and hearing. §363(b). Sales free and clear of liens and encumbrances may be approved only if the Trustee can satisfy at least one of five conditions as set forth in §363(f). Here, the sale proposed by the Trustee satisfies §363(f)(3) because the sale price exceeds the value of the encumbrances securing the obligation to the Bank. Moreover, the Trustee does not dispute the obligation owing to the Bank and proposes that its beneficiary demand be paid at the close of escrow.

Based upon the location and condition of the Property, the Trustee believes that the proposed sale price of \$370,000.00 reflects the actual value in the market place. In addition, the Trustee believes that the proposed sale commission of 6% is within the range of

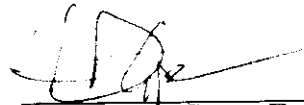
1 commissions charged by brokers handling similar sales in the geographic area of Sparks,  
2 Nevada. Finally, the Trustee requests a finding that the McClenahans are good faith  
3 purchasers for value entitled to the safe harbor provisions of §363(m).

4 CONCLUSION

5 Based upon the foregoing, the Trustee requests an order authorizing sale of the  
6 Property in its "as is, where is" condition to the McClenahans for \$370,000.00 cash and  
7 authorizing the Trustee to execute such documentation as is required to consummate the  
8 subject sale. The Trustee further requests that the order approving the sale also authorize  
9 payment of a real estate commission in the amount of 6% of the sale price and that the order  
10 waive the 10 day stay as permitted by F.R.Banker.P. 6004(g). Finally, the Trustee requests  
11 that distribution of the remaining proceeds of the sale, after payment of the costs of sale and  
12 the Bank, be determined by the court at the hearing of this motion.

13  
14 DATED this 24<sup>th</sup> day of October, 2006.

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16 COPE & GUERRA

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18 William D. Cope, Esq. Attorney  
19 for Trustee, Anabelle Savage  
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) I certify that I am over the age of 18 years, and that on this 25<sup>th</sup> day of October, 2006, I deposited for mailing, e-mail and/or electronically filed in Reno, Nevada, a true and correct copy of the foregoing MOTION to the following:

U.S. Trustee  
300 Booth Street, Ste. 2129  
Reno, NV 89509

Anabelle Savage  
P.O. Box 6179  
Reno, NV 89513


John White, Esq.  
335 W. First St.  
Reno, NV 89503

Jeff Hartman  
510 W. Plumb Ln., Ste. B  
Reno, NV 89509

Michael Lehnars  
429 Marsh Ave.  
Reno, NV 89509

DAVID RANKINE  
12 W TAYLOR ST  
RENO, NV 89509

DATED this 25<sup>th</sup> day of October, 2006.

  
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Zayra Garcia-Arroyo  
Employee of COPE & GUERRA